

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1123 of 1995

in

SPECIAL CIVIL APPLICATION No 9320 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BABUBHAI KHIMABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR PJ VYAS for Appellant
MR KG SHETH, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE J.M.PANCHAL and
MR.JUSTICE A.L.DAVE

Date of decision: 29/10/1999

ORAL JUDGEMENT

#. This appeal which is filed under Clause 15 of the
Letters Patent, is directed against judgment rendered by

the learned Single Judge on November 7, 1995 in Special Civil Application No.9320 of 1995, by which the order passed by the State Government on August 14, 1995 refusing to review order dated March 27, 1987, passed by the Competent Authority, is upheld.

#. The appellant was granted exemption under Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 on May 20, 1979. The exemption was in respect of parcels of lands, i.e. lands bearing survey Nos.23/1 and 60/2 admeasuring 13456 and 20740 sq. metres, respectively, situated at Adhewada, taluka Bhavnagar. A notice dated November 17, 1984 was issued by the State Government to the appellant calling upon him to show cause as to why 4047 sq. metres of land which was required for the purpose of Bhavnagar-Talaja public road should not be acquired and why the exemption should not be cancelled in respect of land bearing survey No.23/1. Ultimately, by an order dated April 26, 1985 the exemption of entire parcel of land bearing survey No.23/1 was cancelled by the State Government. Thereupon the form filed by the appellant under Section 6 of the said Act was processed and a draft statement was made on September 30, 1985, to which the appellants had filed objections on January 29, 1987. The competent authority by order dated March 27, 1987 declared 11456 sq. metres of land as excess vacant land. Feeling aggrieved by the said order, the appellant preferred Appeal No.9 of 1987 before the Urban Land Tribunal. The Tribunal dismissed the appeal by order dated November 21, 1987. Thereafter, the petitioner preferred application on December 29, 1987 before the Government requesting the Government to grant exemption in respect of that part of survey No.23/1 which was declared to be excess land. The State Government rejected the said application by order dated July 4, 1991, which was challenged by the appellant in Special Civil Application No.9320 of 1995. The learned Single Judge dismissed the petition at the threshold, giving rise to the present appeal.

#. Mr. K.G. Sheth, learned counsel for the respondents, has produced a letter dated October 28, 1999, addressed by the Competent Authority and Additional Collector, Urban Land Ceiling, Bhavnagar, to the Government Pleader, Gujarat High Court, Ahmedabad. It is ordered to be taken on the record of the case. In the said letter, it is specifically mentioned that the Government has not taken possession of the land which was declared to be excess under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976. It may be mentioned that the Parliament has enacted the Urban Land

(Ceiling and Regulation) Repealing Act, 1999, by which Urban Land (Ceiling and Regulation) Act, 1976 is repealed. Section 4 of the repealing Act provides that all proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act before any Court, Tribunal or other authority shall abate. The proviso to the said section specifies that Section 4 shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the Competent Authority. The record does not indicate that possession of the land in question has been taken over by the State Government. Under the circumstances, it will have to be held that the Letters Patent Appeal has abated. As the Letters Patent Appeal has abated, the same deserves to be disposed of accordingly.

#. For the foregoing reasons, it is held that the Letters Patent Appeal has abated. We make it clear that we have not pronounced upon legality or otherwise of the order which was subject matter of challenge by the appellant in the petition and it will be open to the appellant to point out to the Competent Authority that the proceedings have abated in view of the provisions of the Urban Land (Ceiling and Regulation) Repealing Act, 1999. The Letters Patent Appeal is dismissed as having abated with no orders as to costs.

...

gt